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09/715,586	11/17/2000	Peter Worthington Hamilton	5922R2C	5737
27752 7590 05/22/2008 THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION - WEST BLDG. WINTON HILL BUSINESS CENTER - BOX 412 6250 CENTER HILL AVENUE CINCINNATI, OH 45224				
EXAMINER				
CHANG, VICTOR S				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER WORTHINGTON HAMILTON
and KENNETH STEPHEN MCGUIRE

Appeal 2008-2992
Application 09/715,586
Technology Center 1700

Decided: May 21, 2008

Before EDWARD C. KIMLIN, JEFFREY T. SMITH, and
LINDA M. GAUDETTE, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103 and 105-108. Claim 41 is illustrative:

41. A storage wrap material comprising: a sheet of non-porous material having a first side and a second side, said first side comprising an active side exhibiting an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to activation by a user, said active side further comprising an adhesive disposed continuously

thereon, wherein said sheet of material is linerless, such that activation of said active side requires no removal of components of said sheet of material, wherein said active side is activatable by a tensile force, said sheet of material being sufficiently flexible to conform readily to a desired surface and having sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause said sheet of material to break contact with such a desired surface.

The Examiner relies upon the admitted prior art and the following reference as evidence of obviousness:

Sanders	5,344,693	Sep. 6, 1994
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Appellants' claimed invention is directed to a storage wrap material comprising an adhesive active side that is activatable by a tensile force.

The present application is directed to essentially the same subject matter as that of U.S. Serial No. 09/716,740. The related application was on appeal to this Board and, in a Decision dated September 6, 2007, the Board affirmed the Examiner's rejection under 35 U.S.C. § 103(a) over the same prior art presently applied (Appeal No. 2007-2548). The independent claims now before us do not recite the gauge of the sheet material as did the claims in the prior appeal. On the other hand, the independent claims of this appeal recite that the adhesive is activatable by a tensile force whereas this feature appears only in dependent claims in the prior appeal. The related application is now abandoned.

Appealed claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103, and 105-108 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of the admitted prior art.

Appellants have not set forth an argument that is reasonably specific to any particular claim on appeal. Accordingly, all the appealed claims stand or fall together with claim 41.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejection for essentially those reasons expressed in the Answer and those articulated in the Board's Decision in the aforementioned prior appeal (Appeal No. 2007-2548).

Appellants do not dispute the Examiner's factual determination that Sanders, like Appellants, discloses a sheet or web of plastic material having an adhesive coated on one surface from which protrusions project which allow the adhesive surface to contact itself without sticking together (Appellants' protrusions are recited only in dependent claims, e.g., claim 57). Sanders does not provide an express disclosure that the sheet material is a storage wrap. However, for the reasons set forth in the prior Decision, we are satisfied that the admitted prior art establishes the obviousness of constructing storage wrap material from the adhesive sheet of Sanders.

Appellants contend that "[n]othing in the *Sanders* reference teaches or suggests that the application of a tensile force to the substrate will successfully lead to contact between the substance and the surface" (Principal Br. 4, penultimate para.). However, we concur with the Examiner that the substantial correspondence between the structures of the adhesive materials presently claimed and disclosed by Sanders supports the conclusion that the adhesive side of Sanders' material is activatable by a tensile force. We note that the pressure-sensitive adhesive employed by Sanders is the preferred adhesive of Appellants (*see* Specification 7:29).

Also, Sanders provides a specific disclosure that the adhesive is activated, i.e., brought into contact with another surface, by flexure of the sheet material (*see* col. 3, first para.). Manifestly, such flexure of the sheet material necessarily applies a tensile force.

Appellants point to Sanders' disclosure that the spacing means are non-divergent relative to one another in order to inhibit contact between the adhesive surface and another surface (*see* Sanders, col. 1, ll. 66 et seq.). Based on this disclosure Appellants maintain that "none of the structures disclosed in the reference are described as capable of concurrently being activatable by a tensile force while maintaining non-divergent spacing means" (Reply. Br. 4, third para.). However, this argument is not germane to the claimed subject matter on appeal. The appealed claims recite no such requirement upon activation of the adhesive. Furthermore, Sanders does not teach that the spacing means remain non-divergent upon flexure of the adhesive material.

As a final point, we note that Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results.

In conclusion, based on the foregoing, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2008-2992
Application 09/715,586

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